

Instrument prepared by:

VIRGINIA GAS AND OIL BOARD

Order recorded under:

CODE OF VIRGINIA**§ 45.1-361.26****VIRGINIA:****BEFORE THE GAS AND OIL BOARD****APPLICANTS:**

CNX Gas Company on behalf of HC Bostic coal
Company and James R. Grace, Bill and Helen
McReynolds, and Peggy Arnet.

DOCKET NO.**03-0415-1136-01****RELIEF SOUGHT:**

Issuance: A Supplemental Order for Disbursement of Escrowed Funds

Action: Amending Prior Orders Affecting Drilling Unit AV-118, Tract 2
(Referenced herein as "the Subject Drilling Unit")

Location: Russell County, Virginia

Action Details:

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit AV-118 by Tract Subaccounts;
- (2) To provide each applicant, in simple terms, a complete month over month Royalty Accounting of unit production, costs, taxes and proceeds, depicting variables used in the calculation of royalty payments to the unit escrow account.
- (3) To disburse unit funds to the Applicants, in accordance with their Unit Ownership Interests relative to those funds deposited by the Unit Operator into Subject Drilling Unit's Escrow Subaccount for VGOB Tract(s) identified in Table 1.

REPORT OF THE BOARD**FINDINGS AND ORDER**

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on February 15, 2011, at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** Mark A. Swartz of Swartz Law Offices appeared for the Applicant; and Sharon M.B. Pigeon, Assistant Attorney General, was present to advise the Board.
3. **Jurisdiction and Notice:** Pursuant to Va. Code §§ 45.1-361.1 *et seq.*, and in particular Va. Code §§ 45.1-361.21 and 45.1-361.22, the Board finds that it has jurisdiction over the establishment and maintenance of an escrow account, with tract subaccounts, for each of the coalbed methane gas drilling units established by the Board through its field rules that are subject to a Board pooling order. Further, the Unit Operator is required to deposit, as applicable, those funds specified in Va. Code § 45.1-361.21.D., 45.1-361.22.A.2, 45.1-361.22.A.3 and 45.1-361.22.A.4 into the applicable escrow tract subaccounts. The Board finds that: (1) while it does not have jurisdiction to resolve conflicting claims to the ownership of the Coalbed Methane Gas produced by the Unit Operator from wells located on Subject Drilling Unit, and (2) while it does not have jurisdiction to interpret agreements by and between

the Gas owners/claimants and/or the Unit Operators or to abridge or contravene the provisions of such agreements, (3) pursuant to Va. Code § 45.1-361.22.A.5, the Board does have jurisdiction and authority to disburse funds from the Escrow Account provided the Board has been provided with a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting claimants or an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein or a decision from a court appointed Arbitrator.

4. **Prior Proceedings:**

- 4.1 (a) On April 15, 2003, the Board executed its order pooling interests in the Subject Drilling Unit for the production of occluded natural gas produced from coalbeds and rock strata associated therewith (herein "Gas") in accordance with the provisions of Va. Code SS 45.1-361.21 and 45.1-361.22 (herein "Pooling Order"). The Pooling Order was filed with the Clerk of the Circuit Court of Russell County on May 29, 2003, in Deed Book 583, Pages 0389 to 0405 Instrument 0002275. The Supplemental Order was executed and recorded in with the Clerk of the Court, Russell County on November 17, 2003, in Deed Book 596, Pages 0936 to 0943 Instrument 0005014.
- 4.2 To the extent claims to the Gas were in conflict, pursuant to Va. Code S 45.1-361-22 payments attributable to said conflicting claims were ordered deposited by the Unit Operator into the escrow account established by the Pooling Orders (herein "Escrow Account"). According to the Pooling Orders and testimony, HC Bostic Coal Company and James R. Grace, Bill and Helen McReynolds, and Peggy Arnett in the Subject Drilling Unit have entered into royalty split agreement(s) for 3.75727 acres in a portion of Tract 2 that became subject to the escrow requirements of the Pooling Order.
- 4.3 The Unit Operator's Miscellaneous Petition regarding a portion of Tract 2, a copy of which is attached to and made a part hereof, states under oath that HC Bostic Coal Company and James R. Grace, Bill and Helen McReynolds, and Peggy Arnett in the Subject Drilling Unit have entered into royalty split agreement(s) for 3.75727 acres in a portion of Tract 2 and should be disbursed in a portion of Tract 2 and escrow regarding this individual claim detailed herein is no longer required and monthly royalty payments are to be made direct to the parties.
- 4.4 The Unit Operator gave notice to HC Bostic Coal Company and James R. Grace, Bill and Helen McReynolds, and Peggy Arnett in the Subject Drilling Unit have entered into royalty split agreement(s) for 3.75727 acres in a portion of Tract 2 at its hearing on February 15, 2011, and consider whether to: (1) amend the Pooling Order to provide for the disbursement a portion of funds on deposit in the Escrow Account attributable to a portion of Tracts 1 as identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tract 2, the interests of Applicant identified in the miscellaneous petition in the Escrow Account, and (3) continue the escrow account under this docket number because parties other than those seeking disbursement under this order are subject to continued payments in the escrow.
- 4.5 The Unit Operator filed the attached accounting (Exhibit A) for Subject Drilling Unit's Escrow Account with the Board ("Accounting").

5. **Findings:**

5.1. Va. Code 45.1-361.22.5 provides:

The Board shall order payment of principal and accrued interests, less escrow account fees, from the escrow account to conflicting claimants within thirty days of receipt of notification of (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them or (ii) an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The interests of any cotenants who have not entered into an agreement shall remain in the escrow account.

5.2 Applicant has certified and represented to the Board that:

- (1) HC Bostic Coal Company and James R. Grace, Bill and Helen McReynolds, and Peggy Arnett in the Subject Drilling Unit have entered into royalty split agreement(s) for 3.75727 acres in a portion of Tract 2 of the Subject Drilling Unit; AV-118.
- (2) Net interests attributable and to be disbursed to Applicants are shown in Table 1,
- (3)

VGOB Approved Disbursement
VGOB-03-0415-1136-01
AV-118

VGOB Approved Disbursement		As Given		Split Agreement	Acres	% of Escrowed Funds
VGOB-03-0415-1136-01	AV-118	Acres Fraction	Acres Interest			
Table 1		Coal Seam Percentage				
		Tract 1				
Item	Tract	Disbursement Table				
			10.34		5.437266	
					-	0.0000%
1	2	HC Bostic Coal Company, P. O. Box 220, Swords Creek, VA 24649	10.34000	50.0%	1.8786	34.5511%
		Myrtle Donohoe Dye Heirs				
2	2	James R. Grace, 18128 Breckenridge Court, Abingdon, VA 24211	1/3	3.4467	36.337%	50.0%
3	2	Bill & Helen McReynolds, 151 Star Lake Drive, Hawthorne, FL 32640	1/3	3.4467	36.337%	50.0%
4	2	Peggy Arnett, 2590 Lester Court, Mansfield, OH 44903	1/3	3.4467	36.337%	50.0%
					0.6262	11.5170%
					0.6262	11.5170%

6. Relief Granted:

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting and Table 1 above, the Escrow Agent is ordered to, within 10 days of receipt of this executed order to disburse funds for the unit and applicants detailed in Table 1 above.

Exhibit E to the Pooling Order, showing owners subject to escrow, is deleted and replaced with the Exhibit E attached to this order. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the conflicting coalbed methane gas ownership interests of those applicants indicated in Table 1 be deposited by the Unit Operator into the Escrow Account, and, because there are other owners subject to escrow under the Supplemental Order, the Escrow Agent is directed to continue the Escrow Account for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

7. Conclusion:


Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED.**

8. Appeals:

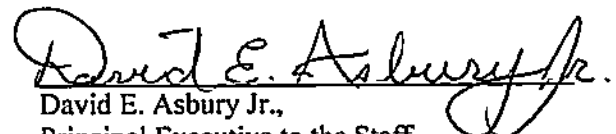
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo.

9. **Effective Date:** This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 17th day of April, 2011 by a majority of the Virginia Gas and Oil Board.


Bradley C. (Butch) Lambert, Chairman
Virginia Gas and Oil Board

DONE AND PERFORMED this 14th day of April, 2011 by an Order of this Board.

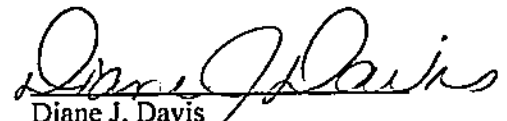

David E. Asbury Jr.,
Principal Executive to the Staff
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA)
COUNTY OF RUSSELL

Acknowledged on this 14th day of April, 2011, personally before me a notary public in and for the Commonwealth of Virginia, appeared Bradley C. Lambert, being duly sworn did depose and say that he is the Chairman of the Virginia Gas and Oil Board and David E. Asbury Jr., being duly sworn did depose and say that he is Principal Executive to the Staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

My commission expires: 09 / 30 / 2013




Diane J. Davis
Notary Public #174394

1100862

VIRGINIA: IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF RUSSELL COUNTY, 4-27, 2011. This deed was this day presented in said office, and upon the certificate of acknowledgment thereto annexed, admitted to record at _____ o'clock A M, after payment of \$ _____ tax imposed by Sec. 58.1-802.

TESTE: ANN S. McREYNOLDS, CLERK
BY: Shirley Kettner D. CLERK

Original returned this date to: Diane Davis

Exhibit A-1
Tract-by-Tract Escrow Calculation
Account Balances as of 11/30/10

BOOK - 733 PAGE 0152

Unit AV-118
VGOB 03-0415-1136-01
Acres Escrowed: 5.43727

Owners	Tract #	Tract Acres	Owner Acres	Interest	Owners' Percent of Escrow	Amount Due Owners \$17,267.03
Pocahontas Seam only						
HC Bostic Coal Company - O&G	2	3.75727			34.5511%	\$5,965.94
Myrtle Donohoe Dye Heirs - Coal		10.34				
James R. Grace			1.2524	1/3	11.5170%	\$1,988.65
Bill & Helen McReynolds			1.2524	1/3	11.5170%	\$1,988.65
Peggy Arnett			1.2524	1/3	11.5170%	\$1,988.65

Wells contributing to the escrow account:

AV118

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*Revision
2/15/11*

PETITIONER: CNX Gas Company LLC

**DIVISION OF GAS AND OIL
DOCKET NO: VGOB 03-0415-1136-01**

**RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING TRACT(S) 2
(2) AND AUTHORIZATION FOR DIRECT
PAYMENT OF ROYALTIES**

HEARING DATE: February 15, 2011

DRILLING UNIT: AV-118

RUSSELL COUNTY, VIRGINIA

MISCELLANEOUS PETITION

1. **Petitioner and its counsel:** Petitioner is CNX Gas Company LLC, 2481 John Nash Boulevard, Bluefield, WV 24701, 304/323-6500. Petitioner's counsel is Mark A. Swartz, **SWARTZ LAW OFFICES, PLLC.**, 601 Sixth Avenue, Suite 201, P.O. Box 1808, St. Albans, WV 25177-1808.

2. **Relief sought:** (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to Tract(s) 2 as depicted upon the annexed Exhibit A-1; and (2) authorization to begin paying royalties directly to the parties to the royalty split between HC Bostic Coal Company and James R. Grace, Bill and Helen McReynolds, and Peggy Arnett

3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 *et seq.*, 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

4. **Type of well(s):** Coalbed methane.

5. **Factual basis for relief requested:** HC Bostic Coal Company and James R. Grace, Bill and Helen McReynolds, and Peggy Arnett have entered into royalty split agreement(s). Said royalty split agreement allows the Applicant and Designated Operator to pay royalties directly to the persons identified in Exhibit EE annexed hereto and the annexed Exhibit A-1, further, specifies how said royalties are to be divided and paid.

6. **Attestation:** The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

**CNX GAS COMPANY LLC
BY ITS PROFESSIONAL MANAGER
CNX GAS COMPANY LLC, PETITIONER**

By: 

**Anita D. Duty
Pooling/Supervisor
CNX Land Resources, Inc.
2481 John Nash Blvd.
Bluefield, West Virginia 24701**

PROPERTY LINES SHOWN WERE TAKEN FROM GPS PROVIDED
BY CNX LAND RESOURCES, INC. AND WERE NOT SURVEYED.

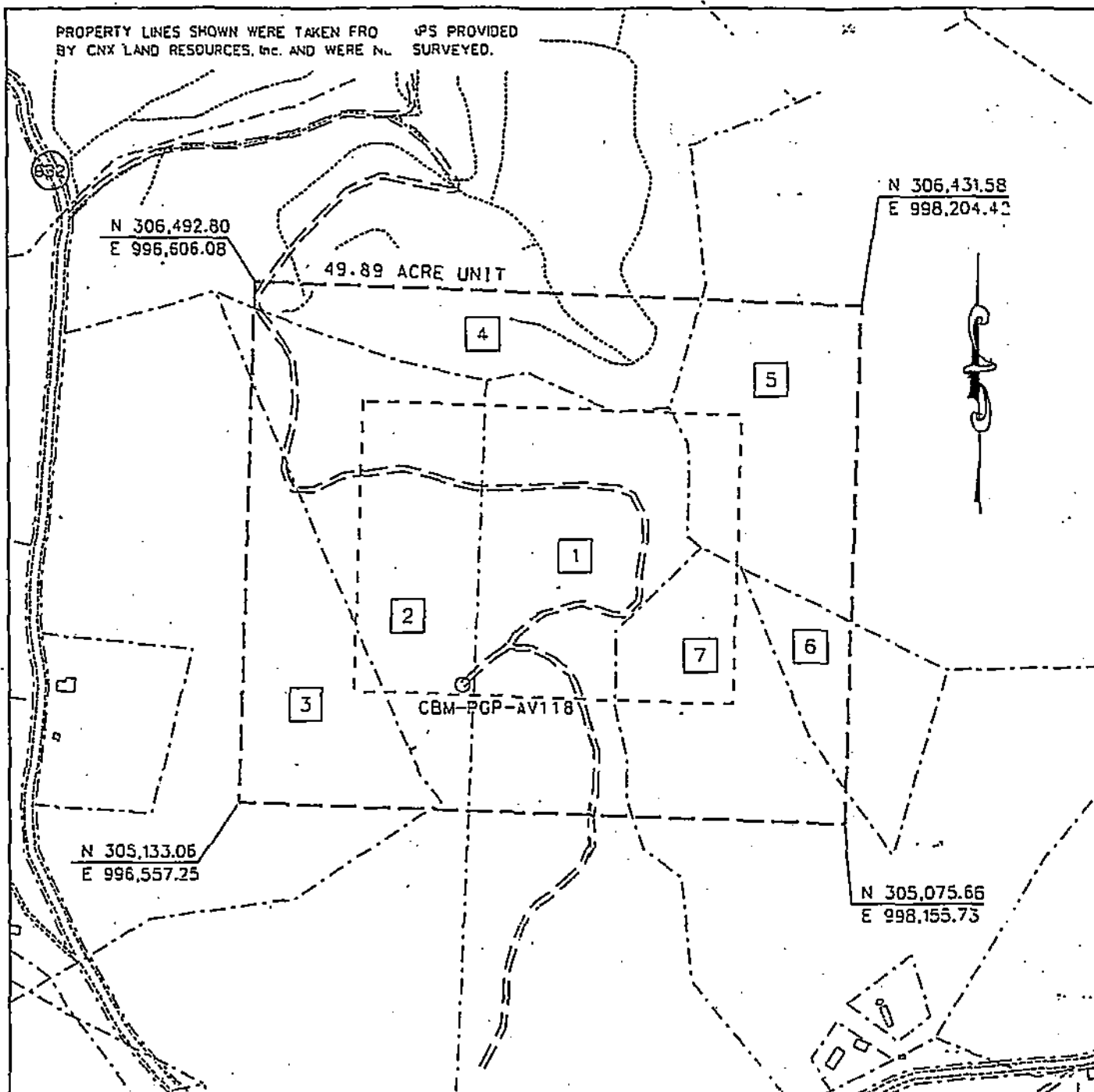


EXHIBIT A
MIDDLE RIDGE 1 FIELD
UNIT AV-118
FORCE POOLING
VGOB-03-0415-1136

Company Pocahontas Gas Partnership Well Name and Number UNIT AV118
Tract No. _____ Elevation _____ Quadrangle Honaker
County Russell District New Garden Scale: 1" = 400' Date 3/12/03
This plat is a new plat X ; an updated plat _____ ; or a final plat _____

Form DGO-GD-7
Rev. 9/91

Charles E. May
Licensed Professional Engineer or Licensed Land Surveyor

(Affix Seal)

POCAHONTAS GAS PARTNERSHIP

Unit AV-118

Tract Identification

(49.89 Acre Unit)

1. Steve M. Hubbard, et al – Fee (except Coal In Red Ash and Jawbone Seams)
Pocahontas Gas Partnership – Oil, Gas and CBM Leased
Martin McGee – Coal in the Jawbone Seam
Ira and Polly Hubbard, Heirs, Devisees or Successors – Coal In the Red Ash Seam
Pocahontas Gas Partnership – Oil, Gas and CBM Leased
11.62 acres 23.2911%
2. H. C. Bostic Company – All Minerals except Coal In Pocahontas and Red Ash Seams
Pocahontas Gas Partnership – CBM Leased
Myrtle Donohoe Dye Heirs, Successors or Devisees – Coal In Pocahontas Seam
Ira and Polly Hubbard, Heirs, Devisees or Successors – Coal In the Red Ash Seam
Pocahontas Gas Partnership – Oil, Gas and CBM Leased
H.C. Bostic Company - Surface
10.34 acres 20.7256%
3. Dorothy Miller, et al – Fee except Coal In Red Ash and Jawbone Seams
Knox Creek Coal Corporation – Coal In Jawbone Seam
L. E. Joyce and W. P. Joyce – Coal In Red Ash Seam
L. E. Joyce and W. P. Joyce – Coal Seams Above Red Ash Seam Leased
Pocahontas Gas Partnership – Oil, Gas and CBM Leased
6.64 acres 13.3093%
4. Alice M. King – Coal (except Coal in Red Ash and Jawbone Seam), Surface and Oil
Knox Creek Coal Corporation – Coal in Red Ash and Jawbone Seam
Martin McGee, et ux - Gas
Pocahontas Gas Partnership – Oil, Gas and CBM Leased
5.48 acres 10.9842%
5. Swords Creek Land Partnership Tr. 58 – Fee
Reserve Coal Properties Company – Below Drainage Coal Leased
Knox Creek Coal Corporation - Above Drainage Coal Leased
Pocahontas Gas Partnership – Oil, Gas and CBM Leased
7.45 acres 14.9329%
6. Earnest Junior Hensley – Fee (less Red Ash Seam)
Ira and Polly Hubbard Heirs – Coal in Red Ash Seam
1.68 acres 3.3674%
7. Martin E. McGee – All Minerals except Coal In Red Ash Seam
Knox Creek Coal Corporation – Coal In Red Ash Seam
Pocahontas Gas Partnership – Oil, Gas and CBM Leased
Emmanuel Hubbard, et al - Surface
6.68 acres 13.3895%

Exhibit E
Unit AV-118
Docket #VGOB 03-0415-1136-01
List of Conflicting Owners/Claimants that require Escrow
(49.89 Acre Unit)
Revised Exhibit

BOOK - 733 PAGE 0156

	Acres in Unit	Interest in Unit
<u>Tract #6, 1.68 acres</u>		
Escrow due to Unknown/ Unlocatable		
<u>COAL OWNERSHIP</u>		
(1) Earnest J. Hensley Addresses Unknown	1.68 acres	3.3674%
<u>OIL & GAS OWNERSHIP</u>		
(1) Earnest J. Hensley Addresses Unknown	1.68 acres	3.3674%

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Revision
2/15/11

Exhibit EE
Unit AV-118
Docket #VGOB 03-0415-1136-01
List of Conflicting Owners/Claimants with Royalty Split Agreements
(49.89 Acre Unit)

BOOK - 733 PAGE 0157

	Acres in Unit	Interest in Unit	Percent of Escrow	Well AV118
<u>Tract #2, 10.34 acres</u>				
<u>COAL OWNERSHIP</u>				
(2) Myrtle Donohoe Dye Heirs, Devisees, Successors or Assigns (Pocahontas Seam)	10.34 acres	20.7256%		Escrowed 36.3372% of their interest in unit
(a) James R. Grace 18128 Breckenridge Court Abingdon, VA 24211	3.45 acres 1/3 of 10.34 acres	6.9085%	11.5170%	
(b) Bill & Helen McReynolds 151 Star Lake Dr. Hawthorne, FL 32640	3.45 acres 1/3 of 10.34 acres	6.9085%	11.5170%	
(c) Peggy Arnett 2590 Lester Court Mansfield, OH 44903	3.45 acres 1/3 of 10.34 acres	6.9085%	11.5170%	
<u>OIL & GAS OWNERSHIP</u>				
(1) H.C. Bostic Coal Company P.O. Box 220 Swords Creek, VA 24849	10.34 acres	20.7256%	34.5511%	Paid 63.6628% of their interest in unit

* NOTE: Although the tract is 10.34 acres, only the ownership of the Pocahontas Seam is in conflict.
To calculate acres escrowed: 10.34 acres x 36.3372% (Which Indicates Pocahontas Seam) = 3.757266 acres in conflict

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Revision
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